

**State of Michigan
Department of Natural Resources and Environment
Water Resources Division**

PUBLIC NOTICE

**PROPOSED GENERAL PERMIT CATEGORIES FOR
ACTIVITIES IN WETLANDS, INLAND LAKES, STREAMS
AND THE GREAT LAKES**

February 14, 2011

Pursuant to Part 301, Inland Lakes and Streams, Part 303, Wetlands Protection, and Part 325, Great Lakes Submerged Lands of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, the Department of Natural Resources and Environment's Water Resources Division is proposing new General Permit (GP) categories. These categories are for activities that are similar in nature, will cause only minimal adverse effects when performed separately, and will have only minimal cumulative adverse effects on the environment. The intent of these categories is to allow better coordination between applicable statutes and to provide clarity on the requirements that must be met for each category. Permit applications made for these types of activities may be processed in an accelerated manner without the issuance of an individual public notice or public hearing. GP categories are issued for a five-year period. The purpose of this public notice is to provide an opportunity for public review and comment prior to issuance of the GP categories. The proposed GP categories can be found at www.michigan.gov/wetlands.

Written comments on the new Proposed General Permit Categories should be sent to:

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All comments must be received by Wednesday, May 16, 2011

This notice will be reviewed by federal agencies in accordance with an agreement with the United States Environmental Protection Agency, under provisions of Section 404 of the Federal Clean Water Act Amendments of 1977.



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENT
LANSING



GENERAL PERMIT CATEGORIES IN THE STATE OF MICHIGAN

February 14, 2011 - DRAFT

Issued Under Part 301, Inland Lakes and Streams; Part 303, Wetlands Protection; and Part 325, Great Lakes Submerged Lands, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA)

BACKGROUND INFORMATION

PURPOSE

Part 301, Part 303, and Part 325 of the NREPA authorize the Michigan Department of Natural Resources and Environment (DNRE), Water Resources Division (WRD), to define types of regulated activities that would be expected to cause no more than minimal impacts and that can, therefore, be reviewed through an expedited permit application process. This General Permit (GP) defines categories of activities that the WRD has determined to have minimal impacts and also defines the legal authority and limitations for use of this process.

The purpose of this GP is to allow the WRD to evaluate permit applications for many minor activities without the delay of public noticing or site inspecting specific projects. The objective of this GP is to reduce the inconvenience and cost of the permit process for applicants proposing minor activities and to reduce the costs of administering the program while protecting aquatic resources.

Please note that this GP does not define projects that will be authorized, but only those that may be considered for accelerated processing. Applications under this GP may be issued, modified, or denied. Authorization will be issued only if it is determined that the proposed activity is in accordance with the criteria and requirements of the NREPA.

GENERAL PERMIT PROCEDURES

A person seeking an authorization under this GP must submit a permit application on a form supplied by the WRD at www.mi.gov/jointpermit. A preliminary determination of whether an application may be processed under this GP is made by WRD staff when the application is received. Applications processed under GP procedures are typically reviewed without issuance of a public notice. However, before authorizing a specific project to proceed under a general permit, the WRD may provide public notice but will not hold a public hearing and will not typically require a site inspection. The department will provide written authorization for an approved project, or will otherwise notify the applicant in writing of the decision on the application.

If at any time in the review process, it is determined that an activity in a proposed project, although within a GP category, is likely to cause more than minimal adverse effects on the environment or aquatic resources, including high-value aquatic habitats, the WRD may require that the application be processed as an individual permit application. The processing as an individual permit application may require the applicant to provide additional information and an additional application fee.

REGULATORY AUTHORITY

Part 301 (Section 30105), Part 303 (Section 30312), and Part 325 (Section 32512) provide that the WRD, after notice and opportunity for a public hearing, may issue general permits on a statewide basis for a category of activities that are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effects on the environment. A general permit cannot be valid for more than 5 years.

GENERAL CRITERIA FOR REVIEW

Part 301, Part 303, and Part 325 specify the criteria that must be met before a permit authorization may be issued. These general criteria, as well as the specific criteria detailed later in this GP, must be met before the WRD can issue an authorization under this GP.

Under Part 303, the WRD will issue an authorization under a GP if the requirements of the GP and the NREPA are met. However, in determining whether to issue an authorization under a general permit, the WRD shall not consider off-site alternatives to be feasible and prudent alternatives. Compensatory wetland mitigation cannot be required as part of an authorization under this GP. Under Part 301 and Part 325, off-site alternatives can be considered. Compensatory mitigation can be provided under Part 301.

EXCLUSIONS

The types of activities described in this document can typically be processed under GP procedures. However, some activities will not qualify for this type of processing even if the listed criteria are met. Applications will not qualify for consideration under these categories if:

- A) It is determined that the proposed project would constitute a "major discharge of dredged or fill materials" subject to Federal review as defined in the Memorandum of Agreement between the DNRE and the U.S. Environmental Protection Agency (U.S. EPA);
- B) The activity is associated with sensitive natural resource areas including:
 - 1. a Federally designated wild and scenic river,
 - 2. a State or Federally designated wilderness or environmental area,
 - 3. a Federally designated marine sanctuary,
 - 4. a State or Federally listed or proposed threatened or endangered species or critical habitat (unless alternative procedures developed by the WRD are followed to coordinate with federal agencies, or the landowner has obtained a letter of no impact from the DNRE),
 - 6. an identified historic or archeological area,
 - 7. an identified recharge area for drinking water aquifers,
 - 8. an identified rare or unique ecological type;
- C) The activity will disturb sediments in an area known or suspected to contain toxic pollutants (unless testing accordance with WRD procedures provided by the applicant shows that the material does not contain toxic pollutants);
- D) The WRD determines that a specific activity that would generally qualify under a GP category would, due to the proximity of other projects and the characteristics of the aquatic resources, cause more than minimal adverse environmental effects;
- E) The project also requires a permit under Part 31, Part 301, Part 303, Part 315 or Part 325 but does not meet one of the general permit or minor project categories under those parts; or
- F) The project also requires a permit under Part 323 or Part 353.

NEED FOR OTHER PERMITS

An authorization under this GP does not remove the need for other applicable local, State, or Federal permits.

EXPIRATION DATE

The categories in this GP modify and replace all existing general permit categories under Part 301, 303, and 325, except for the General Permit Category for Limited Great Lakes Shoreline Management Activities, and shall expire five years from the date of issuance on _____, unless revoked or modified before that date.

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GENERAL PERMIT CATEGORIES

The following activities are incorporated into this list of GP categories. The proposed activity must meet the specific criteria of a category in addition to the General Criteria, Exclusions, and General Conditions. Each category lists the statute(s) to which it applies.

A. Aids to Navigation

Category applies to: ☒ *Part 301, Inland Lakes and Streams*
☐ *Part 303, Wetlands Protection*
☒ *Part 325, Great Lakes Submerged Lands*

The placement of aids to navigation and regulatory markers that meets all of the following:

- The aids are approved by the United States Coast Guard, if applicable.
- The aids are approved under Part 801, Marine Safety, of the NREPA.
- Aids for navigation shall not be used for mooring.

B. Amateur Recreational Gold Prospecting

Category applies to: ☒ *Part 301, Inland Lakes and Streams*
☐ *Part 303, Wetlands Protection*
☐ *Part 325, Great Lakes Submerged Lands*

Amateur recreational gold prospecting with a hand-operated sluice box that is either:

1. Along select portions of streams on state-owned mineral and surface lands, and meets all of the following:
 - This category does not include the following sensitive natural resource areas: state designated natural rivers, state designated natural areas, or state designated trout streams. Note: Applicants may apply for authorization under this category for stream segments highlighted in yellow on the Amateur Recreational Gold Prospecting layer on the Wetland Map Viewer found at www.mcgi.state.mi.us/wetlands/. The stream segments highlighted in yellow have been determined to avoid, to the extent practicable, adverse impact on state or federally listed or proposed threatened or endangered species or their habitat. The applicant may request authorization under this category for up to 5 miles of identified stream segments.
 - Dredging or excavation shall only be done with a shovel in the stream bed and shall not disturb the banks of the stream.
 - The hand-operated sluice box used shall not be larger than 52 inches long, 12 inches wide and 6.5 inches deep.
 - The use of a powered sluice box or any power operated dredge or equipment of any kind is not included in this category.
 - This category is not applicable in any area of a stream if native mussels are encountered while using a sluice box. The applicant must prospect in another authorized stream segment if native mussels are encountered.
 - Only one sluice box per state-owned riparian interest area can be authorized.
 - Sluicing is allowed between July 1 and August 31 from dawn until dusk.
 - This category shall not be used to destroy or alter areas of existing wetland or aquatic vegetation.
 - Authorizations under this category are limited to the recovery of one-half Troy ounce or 15.55 grams of gold per year.

- The applicant must ensure that they remain on the riparian interest area of a streambed in State ownership. (The ownership interest in the stream bed is divided between the owners of opposing stream banks at the thread of the stream.)
2. Along streams where written authorization is obtained from the riparian property owners, and meets all of the following:
- This category applies only where the stream bottom is predominately gravel.
 - Dredging or excavation shall only be done with a shovel in the stream bed and shall not disturb the banks of the stream.
 - The hand-operated sluice box used shall not be larger than 52 inches long, 12 inches wide and 6.5 inches deep.
 - The use of a powered sluice box or any power operated dredge or equipment of any kind is not included in this category.
 - This category is not applicable in any area of a stream if native mussels are encountered while using a sluice box.
 - One sluice box per riparian interest area can be authorized.
 - Sluicing is allowed between July 1 and August 31.
 - Individual prospecting areas shall be 300 square feet or less per location.
 - This category shall not be used to destroy or alter areas of existing wetland or aquatic vegetation.

C. Cleanup of Hazardous and Toxic Waste: Wetlands

Category applies to: ☒ *Part 301, Inland Lakes and Streams*
☒ *Part 303, Wetlands Protection*
☒ *Part 325, Great Lakes Submerged Lands*

Specific activities required to effect the containment, stabilization, or removal of hazardous or toxic waste materials that are either:

1. Performed, ordered, or sponsored by a government agency with established legal or regulatory authority, or
2. Court ordered remedial action plans or related settlements.

This category does not include the establishment of new disposal sites or the expansions of existing sites used for the disposal of hazardous or toxic waste. The plan shall minimize, to the most practicable extent possible, impacts to waters or wetlands.

This GP is intended for interim response; a separate permit may be required for final restoration response. The waters of the state, including wetlands, will be restored to the most practicable extent possible.

The DNRE will coordinate with U.S. EPA 404 Program staff and DNRE solid and hazardous waste management program staff on all applications submitted under this category.

D. Clear Span Bridge

Category applies to: ☒ *Part 301, Inland Lakes and Streams*
☐ *Part 303, Wetlands Protection*
☐ *Part 325, Great Lakes Submerged Lands*

New or replacement clear span bridges that meet all of the following:

- Any abutments or foundations must be placed a minimum of 1.2 times the bankfull width.
- The lowest bottom beam elevation is at or above the natural ground elevations on either bank and spans the entire bankfull width.
- No filling or dredging in the bankfull channel is included in this category, unless approved by the DNRE based on site conditions.
- The structure will allow passage of watercraft that could be expected to navigate the water involved.
- The bridge shall be anchored to prevent floatation during periods of high water.
- For replacements, the proposed road grade shall not exceed that of the existing road grade by more than 4 inches, unless the road grade has been shown to be above the 100-year floodplain elevation. The proposed structure must have an equal or greater hydraulic capacity when compared to the existing structure.
- The approach road fill slopes to natural ground elevations within 10 feet of either side of the bridge for a new structure.

In instances where the applicant is unsure of the bankfull width, it is recommended that the applicant contact DNRE staff and request a pre-application site review.

E. Culvert and Bridge Extensions

Category applies to: ☒ *Part 301, Inland Lakes and Streams*
☐ *Part 303, Wetlands Protection*
☐ *Part 325, Great Lakes Submerged Lands*

The extension of existing bridges or culverts by public transportation agencies that meet all the following:

- The total length of the extension does not exceed 24 feet.
- The end area of the extension must be equal to or greater than the existing structure's end area.
- Dredging and/or filling are limited to the extent necessary for the bridge/culvert extension.
- The proposed inverts shall be at or below the existing stream bottom.
- The structure will be designed and placed to ensure that any increase in stream erosion or downcutting is prevented.
- The placement of riprap shall be limited to the minimum necessary to ensure proper stabilization of the side slopes and fill in the immediate vicinity of the culvert. Riprap shall not extend upstream or downstream of the culvert more than 20 feet on each end. Riprap shall consist of natural field stone or rock (broken concrete is not allowed).
- The existing culvert is not perched (i.e., a culvert with an outlet elevated above the downstream water surface, allowing a freefall condition).

F. Culvert Cleanout

Category applies to: ☒ *Part 301, Inland Lakes and Streams*
☐ *Part 303, Wetlands Protection*
☐ *Part 325, Great Lakes Submerged Lands*

Cleanout activities for existing culverts conducted by County Drain Commissioners, Public Transportation Agencies, their agents, or other governmental agencies that meet all of the following:

- Accumulated sediment and small debris may be removed from within a maximum of 10 feet on either side of the culvert ends.
- Sediments shall be captured to prevent downstream loss of suspended material. When feasible, sufficient materials shall be left to maintain natural bottom materials within the culvert.

- All dredged or excavated materials shall be removed to an identified upland site exclusive of floodplain or wetland areas.
- Culvert cleanout shall occur during periods of low flow.
- Culvert cleanout shall not occur during any critical fish spawning windows.

G. Culvert End Sections, Headwalls and Wingwalls

Category applies to: ☒ *Part 301, Inland Lakes and Streams*
☐ *Part 303, Wetlands Protection*
☐ *Part 325, Great Lakes Submerged Lands*

Installation or replacement of culvert end sections, headwalls, and wingwalls by public transportation agencies that meet all the following:

- The end area of the end-section must be equal to or greater than the existing structure's end area and the length of the end-section is a maximum of 12 feet.
- Dredging and/or filling are limited to the extent necessary.
- The proposed inverts shall be at or below the existing stream bottom.
- The structure will be designed and placed to ensure that any increase in stream erosion or downcutting is prevented.
- The placement of riprap shall be limited to the minimum necessary to ensure proper stabilization of the side slopes and fill in the immediate vicinity of the culvert. Riprap shall not extend upstream or downstream of the culvert more than 20 feet on each end. Riprap shall consist of natural field stone or rock (broken concrete is not allowed).
- The existing culvert is not perched (i.e., a culvert with an outlet elevated above the downstream water surface, allowing a freefall condition).

H. Culverts – Small

Category applies to: ☒ *Part 301, Inland Lakes and Streams*
☐ *Part 303, Wetlands Protection*
☐ *Part 325, Great Lakes Submerged Lands*

New or replacement culverts that are 6 feet or less in span and 30 feet or less in length that meet all of the following:

- The culvert must be bottomless (3-sided), or if the structure has a bottom then the invert elevation must be buried below the stream bottom 20 percent of the structure span or 1/6 of the bankfull width, whichever is greater, up to a maximum buried depth of 1.2 feet.
- The culvert spans a minimum of bankfull width.
- The culvert is aligned with the centerline of the stream at both the inlet and outlet ends. Meanders upstream or downstream of the culvert shall not be eliminated.
- For replacements, the existing culvert cannot be perched (i.e., a culvert with an outlet elevated above the downstream water surface, allowing a freefall condition).
- The culvert must be placed at a flat slope, unless a steeper slope is approved by the DNRE. For stream crossings with an approximate slope of 3 percent or greater, as determined by the DNRE, the structure must be bottomless (or a clear span bridge) to be included in this GP category.
- The placement of riprap shall be limited to the minimum necessary to ensure proper stabilization of the side slopes and fill in the immediate vicinity of the culvert. Riprap shall not extend upstream or downstream of the culvert more than 20 feet on each end. Riprap shall consist of natural field stone or rock (broken concrete is not allowed).

- For replacement culverts, the proposed road grade shall not exceed that of the existing road grade by more than 4 inches, unless the road grade has been shown to be above the 100-year floodplain elevation.
- For new culverts, the fill over the culvert is not more than 1.5 feet.
- The proposed structure must have an equal or greater hydraulic capacity when compared to the existing structure.
- The approach road fill slopes to natural ground elevations within 10 feet of either side of the culvert for a new structure.

In instances where the applicant is unsure of the bankfull width, it is recommended that the applicant contact DNRE staff and request a pre-application site review.

I. Dry Fire Hydrant

Category applies to: ☒ *Part 301, Inland Lakes and Streams*
☒ *Part 303, Wetlands Protection*
☒ *Part 325, Great Lakes Submerged Lands*

Installation of a dry fire hydrant that meets all the following:

- The intake line will not constitute a navigational or safety hazard. The face of the intake structure shall conform to the bottom contour and not extend into the receiving water to impair navigation or create shoreline pockets capable of trapping debris.
- Dredging in wetlands should be minimized to the most practicable extent possible. All impacted areas shall be immediately restored to grade. No additional fill materials (other than the line itself) shall be placed in the wetland.

J. Maintenance Dredging on the Great Lakes and Section 10 Waters

Category applies to: ☒ *Part 301, Inland Lakes and Streams*
☐ *Part 303, Wetlands Protection*
☒ *Part 325, Great Lakes Submerged Lands*

Excavation and removal of accumulated sediment for maintenance of previously dredged areas that meet all the following:

- For Part 301 of the NREPA, this GP includes only Section 10 waters under the federal Rivers and Harbors Act.
- Dredging shall be a maximum of 100 cubic yards per 5-year period.
- Dredging shall be limited to previously authorized depths or controlling depths for ingress/egress, whichever is less.
- Only one permit under this GP category may be authorized on the same parcel of property within any 5-year period.
- The activity will not disturb sediments in an area known or suspected to contain toxic pollutants (unless testing accordance with WRD procedures provided by the applicant shows that the material does not contain toxic pollutants).
- All dredged or excavated materials shall be disposed of in an identified upland (non-floodplain, non-wetland) site.
- This GP category does not include dredging in wetlands.

K. Maintenance: Wetlands

Category applies to: ☐ *Part 301, Inland Lakes and Streams*
☒ *Part 303, Wetlands Protection*
☐ *Part 325, Great Lakes Submerged Lands*

The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill under Part 303, or of any currently serviceable structure or fill in existence on October 1, 1980, provided that:

- The structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement is allowed.
- This GP allows the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within 12 months of the date of their destruction or damage. In cases of catastrophic events, such as tornadoes, this 12-month limit may be waived by the DNRE, provided the permittee can demonstrate funding, contract, or other similar delays.
- This GP also allows temporary structures, fills, and work necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

L. Minor Permit Revisions and Transfers

Category applies to: ☒ *Part 301, Inland Lakes and Streams*
☐ *Part 303, Wetlands Protection*
☒ *Part 325, Great Lakes Submerged Lands*

Minor revisions, including transfers, of a permit that meet all of the following:

- The project is in compliance with the permit and NREPA.
- If the request is for a transfer of the permit, the request is accompanied by a written agreement between the current and new owners or operators containing a specific date for transfer of responsibility, coverage, and liability under the permit.
- No extension of time is allowed under this category.

For the purposes of this category, a minor revision means a transfer of a permit or a revision that does not increase the overall impact of a project and that is within the scope of the project as described in the original permit. Minor permit revisions for wetlands may be requested under Section 30313b of Part 303 of the NREPA.

M. Moist Soil Management for Wildlife

Category applies to: ☐ *Part 301, Inland Lakes and Streams*
☒ *Part 303, Wetlands Protection*
☐ *Part 325, Great Lakes Submerged Lands*

Dredging or filling activities in wetlands and maintenance activities that are associated with moist soil management for wildlife for the purpose of continuing ongoing, site-specific, wildlife management activities where soil manipulation is used to manage habitat and feeding areas for wildlife, that meet all the following:

- Such activities include, but are not limited to, plowing or disking to impede succession, preparing seed beds, or establishing fire breaks
- Sufficient riparian areas must be maintained adjacent to all open water bodies, including streams to preclude water quality degradation due to erosion and sedimentation.
- This GP category does not allow the construction of new dikes, roads, water control structures, or similar features associated with the management areas.
- The activity must not result in a net loss of aquatic resource functions and services.
- This GP category does not allow the conversion of wetlands to uplands, impoundments, or other open water bodies.

N. Oil Spill Cleanup

Category applies to: ☒ *Part 301, Inland Lakes and Streams*
☒ *Part 303, Wetlands Protection*
☒ *Part 325, Great Lakes Submerged Lands*

Oil spill cleanup activities required for:

1. The containment and cleanup of oil and hazardous substances that are subject to the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR part 300) provided that the work is done in accordance with the Spill Control and Countermeasure Plan required by 40 CFR 112.3 and any existing state contingency plan and provided that the Regional Response Team (if one exists in the area) concurs with the proposed containment and cleanup action.
2. The cleanup of oil releases in waters of the State from electrical equipment that are governed by the U.S. EPA's polychlorinated biphenyl spill response regulations at 40 CFR Part 761.

The spill shall be reported as required by the Part 5 Rules, Spillage of Oil and Polluting Materials, promulgated pursuant to Part 31, Water Resources Protection, of the NREPA.

This GP is intended for interim response; a separate permit maybe required for final restoration response. The waters of the state, including wetlands, will be restored to the most practicable extent possible.

The DNRE will coordinate with the U.S. EPA 404 program staff on all applications submitted under this GP category.

O. Pipeline Safety Program Designated Time Sensitive Inspections and Repairs

Category applies to: ☒ *Part 301, Inland Lakes and Streams*
☒ *Part 303, Wetlands Protection*
☐ *Part 325, Great Lakes Submerged Lands*

Maintenance and repair of oil and gas pipelines that cross inland lakes, streams, and wetlands, in particular as required by the provisions of the Pipeline Safety Improvement Act of 2002, that meet all the following:

- The repair and replacement using the best available construction technologies that are necessary to avoid and minimize impact when considering the wetlands and waters involved. Additional precautions and construction techniques may be necessary in areas of high quality resources.
- Stream crossing shall use dry ditch open trenching, and shall be limited to 50 feet per crossing and a cumulative total of 200 feet per application.
- Wetland crossings using open trenching shall be limited to total cumulative crossing length of 500 feet per application.
- All pipeline repair and maintenance projects shall follow the relevant and appropriate procedures and best management practices (BMPs) outlined in the Federal Energy Regulatory Commission "Wetland and Waterbody Construction and Mitigation Procedures," dated January 17, 2003, or an equivalent manual of procedures and BMPs approved in advance by the WRD. Site access and preparation, pipeline repair or installation, and site restoration must be sequenced and carried out in accordance with these procedures and BMPs in order to minimize soil erosion and siltation, the introduction of non-native and invasive species, drainage of wetlands via the pipeline conduit, and other adverse impacts to aquatic resources. The specific repair procedure that will be used once a pipeline is exposed at a given crossing does not have to be identified in advance of authorization under this GP category as long as such procedures are included in the approved BMP Manual. This GP category does not mandate the presence of Environmental Inspectors at all times, but an Inspector must be available to ensure compliance with BMPs.
- Damaged pipeline must be replaced in the same location where it is feasible and prudent to do so, unless it can be demonstrated that relocation of the pipeline will result in an overall reduction of adverse impacts to aquatic resources. Where damaged pipeline must be replaced in a new location, that location must be selected to minimize overall environmental impact of the project.
- Where drilling mud is being used, two properly installed rows of silt fencing must be installed around entry/exit points of the bore. Any unintended release of drilling mud shall be immediately reported to WRD staff, and additional drilling shall be discontinued while the material that was released is controlled. Cleanup of drilling mud that impacts water resources, including wetlands, shall be initiated and completed in an expeditious manner.
- When a plowing-in method is used in wetlands, the area must be immediately restored to grade after installation.
- All revegetation of wetland sites must be with plant species that are native to Michigan according to the Floristic Quality Assessment for the State of Michigan.
- The construction of new permanent access roads is not included under this GP category. Where needed, timber construction mats may be authorized under this category.

This GP category does not alter or replace current exemptions, but provides a mechanism for authorization of repairs for pipelines that do not meet the criteria for exempt activities, and in particular coordinates authorization of pipeline repairs that impact both wetlands and other waterbodies.

P. Recreational Facilities: Boardwalks, Platforms, and Walkways

Category applies to: ☐ Part 301, Inland Lakes and Streams
☒ Part 303, Wetlands Protection
☐ Part 325, Great Lakes Submerged Lands

The following recreational facilities are included in this GP category:

1. Simple elevated or floating structures that are either:
 - a. Open pile or floating boardwalks constructed to access wetlands or open water provided that they do not exceed 6 feet in width, except for widening to allow passage of wheel chairs, etc., at 150 foot intervals, and have a maximum cumulative length through wetlands of 500 feet.
 - b. Open pile or floating platforms constructed of appropriate non polluting materials not to exceed 120 square feet of surface area.

Roofs or walls are not included in this GP category. Railings may be authorized if proper justification is provided by the applicant, if blockage of animal migration is minimized to the greatest extent possible, and if the railings are determined by the DNRE to be necessary during the review process.

2. Walkways or footpaths that are on public lands or on lands that are owned or managed by nonprofit conservation organizations, that meet all of the following:
- The walkway does not exceed 6 feet in base width and 200 feet in cumulative length through wetlands.
 - A boardwalk or elevated walkway is not feasible or practical.
 - Culverts are required where necessary to provide for the free flow of surface water.
 - If in a floodway, the grade elevation change shall not exceed 4 inches.
 - The area does not have standing water for any significant period of time.

Q. Scientific Measuring Devices

Category applies to: ☒ *Part 301, Inland Lakes and Streams*
☒ *Part 303, Wetlands Protection*
☒ *Part 325, Great Lakes Submerged Lands*

Devices whose purpose is to measure and record scientific data, such as staff gages, water recording devices, water quality testing and improvement devices, and similar structures.

R. Soil Borings

Category applies to: ☒ *Part 301, Inland Lakes and Streams*
☐ *Part 303, Wetlands Protection*
☒ *Part 325, Great Lakes Submerged Lands*

Soil sample borings that meet all of the following:

- The outside diameter of the bore hole does not exceed 8 inches.
- Drilling is carried out either from a bridge or other existing structure, or from a barge anchored on a temporary basis, and is completed within a 48-hour period for each bore hole.
- After completion of drilling, the auger hole is backfilled, as appropriate, and any material remaining on the auger is disposed of in an upland location.
- Written authorization is obtained from any riparian property owners prior to drilling, other than soil borings carried out by or for a public agency within a public right of way or under appropriate authority.

S. Stormwater Management Facilities: Wetlands

Category applies to: ☐ *Part 301, Inland Lakes and Streams*
☒ *Part 303, Wetlands Protection*
☐ *Part 325, Great Lakes Submerged Lands*

Dredging or filling in wetlands for the maintenance of stormwater management facilities which were designed for the primary purpose of stormwater detention, retention, and/or treatment, including the maintenance dredging of existing stormwater ponds/facilities, detention basins, and retention basins and maintenance of water control structures, outfall structures and emergency spillways.

To be included in this category, the maintenance activity must meet all of the following:

- The dredging and filling must not cause the loss of greater than ½-acre of wetlands.
- Any contaminated materials shall be appropriately handled and disposed.

T. Survey Activities

Category applies to: ☐ *Part 301, Inland Lakes and Streams*
☒ *Part 303, Wetlands Protection*
☐ *Part 325, Great Lakes Submerged Lands*

Survey activities, such as core sampling, seismic exploratory operations, plugging of seismic shot holes and other exploratory-type bore holes, exploratory trenching, soil surveys, sampling, and historic resources surveys that meet all the following:

- The area in which the exploratory trench is dug must be restored to its pre-construction grade upon completion of the work. For the purposes of this GP, the term exploratory trenching means mechanical land clearing of the upper soil profile to expose bedrock or substrate, for the purpose of mapping or sampling the exposed material.
- The top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench.
- This GP allows the construction of temporary pads, provided the fill does not exceed 25 cubic yards, or the placement of temporary structures and construction mats.
- Dredging, filling, and structures associated with the recovery of historic resources are not included in this GP category.
- Drilling and the discharge of excavated material from test wells for oil and gas exploration are not included in this GP category; the plugging of such wells is included.
- Fill placed for roads and other similar activities is not included in this GP category.
- This GP category does not include any permanent structures.
- The discharge of drilling mud and cuttings may require a separate National Pollutant Discharge Elimination System permit.

U. Wetland Habitat Restoration and Enhancement

Category applies to: ☒ *Part 301, Inland Lakes and Streams*
☒ *Part 303, Wetlands Protection*
☐ *Part 325, Great Lakes Submerged Lands*

For the purposes of this category:

Restoration is the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or altered wetland. Restoration is either one of the following:

- a. Re-establishment is the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland acres.
- b. Rehabilitation is the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions of altered wetlands.

Enhancement is the manipulation of the physical, chemical or biological characteristics of a wetland site to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the

vegetation present. Enhancement is undertaken for a purpose such as a water quality improvement, flood water retention or wildlife habitat improvement. Enhancement results in a change in wetland function(s), but does not result in a gain in wetland acres.

Altered wetlands include areas that have been partially or fully drained by ditching, tiling, and/or pumping; or partially or fully filled by direct placement of material or significant sedimentation; or where other land use conversions have resulted in significant alteration of the original character of the site.

Former Wetland is an area that once was a wetland but it has been modified to the point it no longer has the hydrologic characteristics of a wetland. Former wetlands are not regulated under Part 303 of the NREPA.

Dredged or excavated spoils or fill material shall not be located in a floodway or harmfully interfere with flood flows in any streams regulated under Part 31, Water Resources Protection, of the NREPA. Spoils must be removed from and fill shall not be placed in any floodplain regulated under Part 31 unless it meets the criteria for a minor project under that part to be included in this category. Construction of a dike, berm, or embankment that is 6 feet or more in height and that impounds an area of 5 acres or more during a design flood; such activity requires authorization under Part 315, Dam Safety, of the NREPA may not be authorized under this category.

Dredging and filling activities below the Ordinary High Water Mark of lakes or streams are not included under this category.

This category includes projects that restore or enhance wetland functions and do not result in a net loss of wetland acreage or function that are conducted by or in cooperation with Local, State or Federal conservation agencies or non-profit conservation organizations, and are any of the following:

1. Rehabilitation or enhancement activities in wetlands that have been farmed within the past 5 years that meets the following:

- Use of soil cultivation equipment (e.g., harrows, discs, or plows) or other earth moving equipment, to re-establish microtopography. Microtopography establishment shall be a maximum of 6 inches above the normal design water elevation and the area must continue to meet the definition of a wetland under Part 303.
- Existing drainage structures may be removed or altered (e.g., tile breaks, pump removal) to reduce or eliminate effects of drainage.
- Wetland fill for dikes, berms, embankments, and other structures shall not exceed two acres. The purpose of such fill shall be to restore or enhance the hydrological function of the farmed wetland. The two acre size limit refers only to the wetland area on which fill is placed and not to the broader disturbance area or restored basin size.

2. Rehabilitation in wetlands documented to be dominated by invasive species (e.g., reed canary grass or Phragmites) for the purposes of invasive species management, that meets the following:

- Existing drainage structures may be removed or altered (e.g., tile breaks, pump removal) to restore (to the extent possible) the original or natural wetland hydrology, vegetation, and/or functions of the wetland.
- Plugs in drains or ditches not meeting the definition of a stream under Part 301 may be authorized under this subcategory if photographs of the plug location are provided and if all impacted parties acknowledge and provide their written authorizations. Wetland fill for dikes, berms, or embankments associated with the plug shall not exceed 1/3 acre. The purpose of such fill shall be to restore the hydrological function of the wetland.

3. Excavation of shallow water areas for wildlife:

- a. Excavation of shallow water areas for wildlife less than 5 acres in size in a former wetland or upland site and within 500 feet of a inland lake or stream, or
- b. Excavation of shallow water areas for wildlife in wetlands that have been regularly farmed within the past 5 years or in wetlands documented to be dominated by invasive species (e.g., reed canary grass or Phragmites). Each individual excavated area shall not exceed 1.5 acres and the cumulative impact of excavation associated with a project shall not exceed 3 acres.

For both subcategory a. and b., the excavation must meet the following:

- At least 50 percent of the surface area of the excavated area shall have a water depth of no more than 18 inches and no more than 15 percent can be deeper than 48 inches.
 - The excavated area shall not be constructed within or physically touching an inland lake or stream.
 - All excavated spoils including organic and inorganic soils, vegetation and debris shall be placed at an upland site in such a manner as not to erode into any water body or wetland, unless this material is used to re-establish microtopography. The establishment of microtopography is allowed within the excavated areas, but any microtopography areas shall be a maximum of 6 inches above the normal design water elevation and the area must continue to meet the definition of a wetland under Part 303. Excavated topsoil may be placed back into the excavated area to aid in plant establishment.
 - For excavated areas within 500 feet of cold- or cold-transitional streams, the applicant must provide written documentation of concurrence on the project from DNRE Fisheries Division.
4. Plugs in drains or ditches not meeting the definition of a stream may be authorized under this subcategory to restore wetland hydrology if photographs of the plug location are provided and if all impacted parties acknowledge and provide their written authorizations.
 5. Water level control in wetlands or impoundments for habitat management within areas managed for wildlife that meets all of the following:
 - The drawdown rate shall not exceed 6 inches per day.
 - The drawdown shall not negatively impact downstream habitat or structures.
 - For drawdowns with water discharge to streams, the applicant must provide written documentation of concurrence on the project from DNRE Fisheries Division and DNRE Wildlife Division.

For all activities within this GP category, stumps, trunks and limbs may be placed in wetlands for establishing wildlife habitat structure.

GENERAL CONDITIONS

The following general conditions must be complied with for any authorization under a GP to be issued:

1. Navigation and Riparian Rights. No activity may cause more than a minimal adverse effect on navigation. The activity shall not interfere with the riparian rights or use of the waters by others.
2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water.
3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.
4. Migratory Bird Breeding Areas. Activities in waters of the state that serve as breeding areas for

- migratory birds must be avoided to the maximum extent practicable.
5. Shellfish Beds. No activity may occur in areas of concentrated native shellfish populations (mussels).
 6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or fill must be free from toxic pollutants in toxic amounts.
 7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
 8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow, must be minimized to the maximum extent practicable.
 9. Management of Water Flows. To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage highflows. The activity may alter the preconstruction course, condition, capacity, and location of openwaters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).
 10. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations within 90 days of initiation of the authorized activity unless otherwise approved by the department. The affected areas must be revegetated and reseeded with species native to Michigan appropriate to the site.
 11. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.
 12. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
 13. Mitigation. The DNRE will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:
 - (a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the state to the maximum extent practicable.
 - (b) Mitigation in all its forms (avoiding, minimizing, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.
 14. Water Quality. The project must comply with state water quality standards.
 15. Coastal Zone Management. The project must comply with the enforceable statutes in Michigan's coastal zone management plan.
 16. Case-By-Case Conditions. The activity must comply with conditions that may have been added by the DNRE and with any case specific conditions added for section 401 Water Quality Certification or Coastal Zone Management Act consistency determination. Under Part 303, case-by-case conditions may only be imposed after consultation with the applicant or applicant's agent.
 17. Use of Multiple GP Categories. The use of more than one GP category for a single and complete project is allowed unless it is prohibited within a specific GP category.
 18. Compliance Certification. Each permittee who receives an authorization under a GP must submit a signed certification regarding the completed work and any required mitigation within one week after the completion of the authorized activity. The certification must be mailed to the DNRE with the authorization (permit) number and shall include:
 - (a) A statement that the authorized work was done in accordance with the authorization under the GP, including any general or specific conditions;
 - (b) A statement that any required mitigation was completed in accordance with the permit conditions; and
 - (c) The signature of the permittee certifying the completion of the work and mitigation.
 19. Single and Complete Project. The activity must be a single and complete project. The same GP category cannot be used more than once for the same single and complete project.

AUTHORIZATION CONDITIONS

The following additional conditions will also apply to all authorizations issued under all GP categories:

- A. Initiation of any work on the permitted project confirms the permittee's acceptance and agreement to comply with all terms and conditions of an authorization under this permit.
- B. The permittee in exercising the authority granted by an authorization under this permit shall not cause unlawful pollution as defined by Part 31, Water Resources Protection, of the NREPA.
- C. An authorization under this permit shall be kept at the site of the work and available for inspection at all times during the duration of the project or until its date of expiration.
- D. All work shall be completed in accordance with the plans and the specifications submitted with the application and/or plans and specifications attached to the authorization.
- E. No attempt shall be made by the permittee to forbid the full and free use by the public of public waters at or adjacent to the structure or work approved.
- F. It is made a requirement of an authorization under this permit that the permittee give notice to public utilities in accordance with Act 53 of the Public Acts of 1974 and comply with each of the requirements of that act.
- G. An authorization under this permit does not convey property rights in either real estate or material, nor does it authorize any injury to private property or invasion of public or private rights, nor does it waive the necessity of seeking federal assent, all local permits or complying with other state statutes.
- H. An authorization under this permit does not prejudice or limit the right of a riparian owner or other person to institute proceedings in any circuit court of this state when necessary to protect his or her rights.
- I. Permittee shall notify the DNRE within one week after the completion of the authorized activity.
- J. An authorization under this permit shall not be assigned or transferred without the written approval of the DNRE.
- K. Failure to comply with conditions of an authorization under this permit may subject the permittee to revocation of the authorization and criminal and/or civil action as cited by the specific state act, federal act and/or rule under which this permit is granted.
- L. All dredged or excavated materials shall be disposed of in an upland (non-floodplain, non-wetland) site.
- M. In issuing an authorization under this permit, the DNRE has relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of an authorization, such information and data prove to be false, incomplete, or inaccurate, the DNRE may modify, revoke, or suspend the permit, in whole or in part, in accordance with the new information.
- N. The permittee shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, employees, agents and representatives for any and all claims or causes of action arising from acts or omissions of the permittee, or employees, agents, or representatives of the permittee, undertaken in connection with this permit. This permit shall not be construed as an indemnity by the State of Michigan for the benefit of the permittee or any other person.
- O. Noncompliance with these terms and conditions, and/or the initiation of other regulated activities not specifically authorized shall be cause for the modification, suspension, or revocation of this permit, in whole or in part. Further, the DNRE may initiate criminal and/or civil proceedings as may be deemed necessary to correct project deficiencies, protect natural resource values, and secure compliance with statutes.
- P. If any change or deviation from the permitted activity becomes necessary, the permittee shall request, in writing, a revision of the permitted activity from the DNRE. Such revision requests shall include complete documentation supporting the modification and revised plans detailing the proposed modification. Proposed modifications must be approved, in writing, by the DNRE prior to being implemented.
- Q. An authorization under this permit may be transferred to another person upon written approval of the DNRE. The permittee must submit a written request to the DNRE to transfer the permit to the new owner. The new owner must also submit a written request to accept transfer. The new owner must agree, in writing, to accept all conditions of the authorization. A single letter signed by both parties which includes all the above information may be provided to the DNRE. The DNRE will review the request and if approved, will provide written notification to the new owner.
- R. Prior to initiating construction authorized, the permittee is required to provide a copy of the authorization to the contractor(s) for review. The property owner, contractor(s), and any agent

involved in exercising the authorization are held responsible to ensure the project is constructed in accordance with all drawings and specifications. The contractor is required to provide a copy of the authorization to all subcontractors doing work authorized by the authorization.

- S. Construction must be undertaken and completed during the dry period of the wetland. If the area does not dry out, construction shall be done on equipment mats to prevent compaction of the soil.
- T. Authority granted by an authorization does not waive permit requirements under Part 91, Soil Erosion and Sedimentation Control, of the NREPA, or the need to acquire applicable permits from the County Enforcing Agent.
- U. Authority granted by this permit does not waive permit requirements under the authority of Part 305, Natural Rivers, of the NREPA. A Natural Rivers Zoning Permit may be required for construction, land alteration, streambank stabilization, or vegetation removal along or near a natural river.
- V. The permittee is cautioned that grade changes resulting in increased runoff onto adjacent property is subject to civil damage litigation.
- W. Unless specifically stated in an authorization under this permit, construction pads, haul roads, temporary structures, or other structural appurtenances to be placed in a wetland or on bottomland of the waterbody are not authorized and shall not be constructed unless authorized by a separate permit or permit revision granted in accordance with the applicable law.